

## CHAPTER 7300

### PUBLIC EMPLOYMENT RELATIONS BOARD

### ISSUES AND APPEALS

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#### 7300.0100 DEFINITIONS.

Subpart 1. **Appeal.** "Appeal" means issues relating to the meaning of the terms "supervisory employee," "confidential employee," "essential employee," or "professional employee"; appeals from determinations of the director relating to the appropriateness of a unit; and appeals from determinations of the director relating to a fair share fee challenge.

Subp. 2. [Repealed by amendment, 8 SR 293]

Subp. 3. **Board.** "Board" means the Public Employment Relations Board or a panel of the Public Employment Relations Board.

Subp. 4. **Bureau.** "Bureau" means the Bureau of Mediation Services.

Subp. 5. [Repealed by amendment, 8 SR 293]

Subp. 6. **Director.** "Director" means the Director of the Bureau of Mediation Services.

Subp. 7. [Repealed by amendment, 8 SR 293]

Subp. 8. **Party.** "Party" means any person, public employee, public employer, exclusive representative of public employees, public employee organization, or public employer organization whose legal rights, duties, or privileges will be directly determined in an appeal.

Subp. 9. **Presiding officer.** "Presiding officer" means the board, one or more of its members, or a hearing examiner appointed by the board.

Subp. 10. [Repealed by amendment, 8 SR 293]

Subp. 11. **Service; serve.** "Service" or "serve" means service of a document required by this chapter, by person or certified United States mail with return requested, postage prepaid, and addressed to the party at its last known address, unless some other manner of service is required by law. Certified mail means mail which must be signed for by the addressee upon receipt of said mail. Unless otherwise expressly stated by this chapter, service is effective upon receipt.

Subp. 12. [Repealed by amendment, 8 SR 293]

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

**7300.0300 SCOPE.**

This chapter shall apply to:

A. issues relating to the meaning of the terms "supervisory employee," "confidential employee," "essential employee," or "professional employee";

B. appeals from determinations of the director relating to the appropriateness of a unit; and

C. appeals from determinations of the director relating to a fair share fee challenge.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** *8 SR 293*

**7300.0400 COMPUTATION OF TIME.**

In computing any period of time prescribed or allowed by this chapter, the day of act or event from which the designated period of time begins to run shall not be included. The last day of the time period so computed shall be included unless it is a Saturday, Sunday, or legal holiday. For any time period of ten days or less, Saturdays, Sundays, or legal holidays shall not be included in computing the period of time.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** *8 SR 293*

**7300.0500 PRESIDING OFFICER; BOARD OR PANEL.**

The board, as a full body or as a panel of one or more of its members, may hear and decide an appeal. Whenever feasible, a panel shall consist of an equal number of representatives of public employees and public employers, unless otherwise agreed to by the parties.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** *8 SR 293*

**7300.0600 PRESIDING OFFICER; HEARING EXAMINER.**

The board may appoint a hearing examiner to hear an appeal. The hearing examiner shall have such authority as the board deems necessary and appropriate to hear the appeal. The hearing examiner shall submit to the board recommended findings. The final decision on the appeal shall in all cases be made by the board.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** *8 SR 293*

**7300.0700 INITIATING AN APPEAL.**

**Subpart 1. Time limits.** Within ten days of the date of a determination by the director, any party, or parties, may initiate an appeal by serving a copy of a notice of appeal upon all other parties with a copy to the director and filing the original with the board.

**Subp. 2. Notice of appeal.** A notice of appeal shall include:

A. the name and address of the appellant;

B. the names and addresses of all parties who were parties to the appeal;

C. a copy of the director's determination from which the appeal is being taken;

D. a statement of which issues the appellant seeks board review, why the issues should be resolved in the appellant's favor, and what remedy is requested;

E. a statement that the appellant understands the director's rules governing the preparation of and payment for the record and transcript on appeal and agrees to abide by those rules; and

F. the signature of the appellant or its representative.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

#### **7300.0800 ANSWER.**

Within ten days after service of a notice of appeal, all other parties may submit an answer to the notice of appeal. A copy of such answer shall be served on all parties to the appeal and filed with the board. Failure to submit an answer shall not be deemed an admission of any statement contained in the notice of appeal or a waiver of any rights afforded the respondent by any statute or rule.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

#### **7300.0810 BRIEFS.**

The board may establish a briefing schedule as it deems appropriate.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

#### **7300.0900 NOTICE OF HEARING.**

Subpart 1. **Contents of notice.** At least 15 days prior to the hearing date, the board shall serve upon all parties a notice of hearing stating:

A. the date, time, and place of hearing;

B. the rights of the parties to representation (see part 7300.1100); and

C. that failure to appear may prejudice the party's rights (see part 7300.1300).

Subp. 2. **Copy of rules included.** A copy of this chapter shall be included with the notice of hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

#### **7300.1000 CONTINUANCE OF HEARING.**

A request for continuance must be served upon the parties and filed with the board not less than seven days prior to the hearing unless exceptional circumstances are shown.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

#### **7300.1200 INFORMAL AND SUMMARY DISPOSITION.**

Subpart 1. **Informal disposition.** Informal disposition may be made of any appeal or any issue by stipulation, settlement, or agreement at any point in the proceedings so long as the stipulation, settlement, or agreement does not violate any law and is approved by the board.

Subp. 2. **Summary disposition.** The board, on its own motion or on motion of any party, may:

A. dismiss an appeal if the board lacks jurisdiction;

B. summarily affirm the director's determination if the appeal presents no question of substantial merit;

C. limit the issues to be considered to those which present a question of substantial merit;

- D. summarily reverse or remand in the case of obvious error; or
- E. grant other appropriate relief.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

### **7300.1300 DEFAULT.**

The board may decide an appeal adversely to a party who fails to appear after receiving due notice and an opportunity for hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

### **7300.1400 INTERVENTION.**

The board may, upon timely application, allow a person to intervene in an appeal if the applicant establishes that its legal rights, duties, or privileges will be directly determined in the appeal.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

### **7300.1500 SUBSTITUTION OF PARTY.**

Substitution of a party or its representative may be allowed only if notice of the substitution is served on all other parties and filed with the board at least five days prior to the hearing date.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

### **7300.1600 CONSOLIDATION.**

Subpart 1. **Basis.** The board may consolidate cases either on its own motion or on motion of any party if it determines that:

- A. separate appeals present substantially the same issues;
- B. a decision in one case would affect the rights of a party in another case; and
- C. consolidation would not substantially prejudice any party.

Subp. 2. **Stipulation.** Notwithstanding the requirements of subpart 1, the parties may stipulate and agree to consolidation subject to board approval.

Subp. 3. **Order.** The board shall serve on all parties the order of consolidation.

Subp. 4. **Severance from consolidation.** Within five days of receipt of the order of consolidation, a party may file with the board a petition for severance from consolidation which shall include the reasons why the requirements of subpart 1 are not met.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

### **7300.1700 REMAND.**

At any time prior to its decision, the board may remand to the director all or part of the appeal for rehearing, the taking of specified additional evidence, or other appropriate action.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

**7300.1800 EXTENSION OF TIME.**

The parties, with the approval of the presiding officer, may stipulate and agree to extend any time period provided in this chapter.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

**THE HEARING**

**7300.1900** [Repealed by amendment, 8 SR 293]

**7300.1910 THE BOARD RECORD.**

Prior to the hearing, the board shall prepare an official record in each appeal which shall contain:

- A. the record of the proceedings before the director;
- B. the determination of the director;
- C. notice of appeal and any supporting documents;
- D. if consolidation has occurred, the order of consolidation and any supporting documents;
- E. notice of hearing and any supporting documents;
- F. any stipulations, settlements, or agreements entered into by any of the parties; and
- G. pleadings, motions, and intermediate rulings of the presiding officer.

Additional evidence admitted pursuant to part 7300.2050 shall become part of the board record.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

**7300.2000 HEARING PROCEDURE.**

Subpart 1. **Hearing opened.** The presiding officer shall open the hearing and introduce the board record.

Subp. 2. **Beginning argument.** Unless otherwise directed by the presiding officer, the party who initiated the appeal shall begin the argument and shall be followed by the other parties in a sequence determined by the presiding officer.

Subp. 3. **Time allowed.** Each party shall be allowed 30 minutes for its oral argument and an additional five minutes for its rebuttal.

Subp. 4. **Memoranda.** The presiding officer may allow filing of memoranda by the parties.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

**7300.2050 ADDITIONAL EVIDENCE.**

Subpart 1. **Motion.** The presiding officer may admit additional evidence on motion of any party if the motion is filed with the presiding officer and served on all other parties within the time limits established by the presiding officer.

Subp. 2. **Probative value.** The presiding officer may admit evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The presiding officer shall give effect to any rule or privilege recognized by law.

Subp. 3. **Admissibility sequence.** The presiding officer shall direct the sequence of any argument regarding the admissibility of the proposed additional evidence.

Subp. 4. **Oral evidence.** When oral evidence is heard, witnesses shall testify under oath and shall be subject to cross-examination by all parties. The decision to hear oral evidence does not constitute a waiver of any evidentiary objection available to a party.

Subp. 5. **Depositions.** Upon a showing of good cause the presiding officer may allow the taking of depositions to preserve testimony in the same manner as prescribed by the Minnesota Rules of Civil Procedure.

Subp. 6. **Part of board record.** Upon admission, the additional evidence becomes part of the board record.

Subp. 7. **How conducted.** Except as otherwise provided in part 7300.2050, the hearing shall be conducted as provided in part 7300.2000.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

### **7300.2100 TRANSCRIPT OF BOARD HEARING.**

A verbatim record shall be taken by a hearing reporter or recording equipment of any hearing conducted pursuant to part 7300.2000 or 7300.2050.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

**7300.2200** [Repealed by amendment, 8 SR 293]

**7300.2300** [Repealed by amendment, 8 SR 293]

### **7300.2400 DECORUM.**

The presiding officer may prohibit the operation of a television, newsreel, motion picture, still, or other camera and mechanical recording devices in the hearing room while the hearing is in progress if such operation shall be determined to have a significantly adverse effect on the hearing.

No person shall interfere with the free, proper, and lawful access to or egress from the hearing room. No person shall interfere or threaten interference with the hearing.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

### **BOARD DECISION AND REHEARING**

**7300.2500** [Repealed by amendment, 8 SR 293]

### **7300.2600 BOARD DECISIONS AND ORDERS.**

All decisions and orders issued by the board shall be in writing and shall be accompanied by a statement of the reasons therefor.

All decisions and orders shall be served on all parties and filed with the director.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

**7300.2700** [Repealed by amendment, 8 SR 293]

### **7300.2800 BOARD RIGHT TO REHEAR.**

The board, on its own motion or on petition of any party and for good cause shown, may reopen, rehear, and redetermine an appeal. The petition for rehearing must be served on all parties and filed with the board within ten days of the determination of the appeal.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** 8 SR 293

**7300.2900 PETITION FOR REHEARING.**

A petition for rehearing shall contain:

- A. the name and address of the petitioner;
- B. the board designation of the case;
- C. a statement as to which issues rehearing is sought; and
- D. the reasons why the issues should be reheard.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** *8 SR 293*

**7300.2950 CONSIDERATION.**

The board may consider evidence and argument in written or oral form with respect to granting or denying the petition.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** *8 SR 293*

**7300.3000 DETERMINATION.**

A petition for rehearing may be granted only if the petition or the board record reveals:

- A. irregularities in the board proceedings;
- B. errors of law occurring during the board proceedings;
- C. newly discovered material evidence;
- D. a change in existing law material to the appeal; or
- E. good cause for failure to appear.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** *8 SR 293*

**7300.3100 NOTICE OF REHEARING.**

A notice of rehearing shall be provided in the same manner prescribed for a hearing by part 7300.0900.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** *8 SR 293*

**7300.3200 REHEARING PROCEDURE.**

A rehearing of an appeal shall be conducted in the same manner prescribed for a hearing by parts 7300.1910 to 7300.2400.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** *8 SR 293*

**7300.3300 DECISION AFTER REHEARING.**

The decision after rehearing shall be issued in the same manner prescribed for the decision after a hearing by parts 7300.1200, 7300.1300, and 7300.2600.

**Statutory Authority:** *MS s 179.72 subds 2,4*

**History:** *8 SR 293*